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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

To provide emergency paid leave benefits to certain individuals affected by
COVID-19, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M_____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To provide emergency paid leave benefits to certain
individuals affected by COVID-19, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Paid Leave
5 Act of 2020”.

6 **SEC. 2. EMERGENCY PAID LEAVE BENEFITS.**

7 The Social Security Act is amended by inserting after
8 title V the following:

1 **“TITLE VI—EMERGENCY PAID**
2 **LEAVE BENEFITS**

3 **“SEC. 601. DEFINITIONS.**

4 “In this title, the following definitions apply:

5 “(1) EMERGENCY LEAVE DAY.—

6 “(A) IN GENERAL.—The term ‘emergency
7 leave day’ means, with respect to an individual,
8 a calendar day in which the individual is not
9 able to engage in employment due to any of the
10 following reasons:

11 “(i) The individual has a current di-
12 agnosis of COVID-19.

13 “(ii) The individual is under quar-
14 antine (including self-imposed quarantine),
15 at the instruction of a health care provider,
16 employer, or a local, State, or Federal offi-
17 cial, in order to prevent the spread of
18 COVID-19.

19 “(iii) The individual is engaged in
20 caregiving for an individual who has a cur-
21 rent diagnosis of COVID-19 or is under
22 quarantine as described in clause (ii).

23 “(iv) The individual is engaged in
24 caregiving, because of the COVID-19-re-
25 lated closing of a school or other care facil-

1 ity or care program, for a child or other in-
2 dividual unable to provide self-care.

3 “(B) LIMITATION.—No calendar day may
4 be treated as an emergency leave day with re-
5 spect to an individual if the individual—

6 “(i) received any form of compensa-
7 tion from an employer (other than State or
8 private paid leave), including wages or any
9 form of accrued paid leave, for such day;
10 or

11 “(ii) was eligible for unemployment
12 compensation for the week in which such
13 day occurs.

14 “(2) COMMISSIONER.—The term ‘Commis-
15 sioner’ means the Commissioner of Social Security.

16 “(3) ELIGIBLE INDIVIDUAL.—The term ‘eligible
17 individual’ means an individual who had wages or
18 self-employment income during the 30-day period
19 ending on the first emergency leave day with respect
20 to such individual.

21 “(4) SELF-EMPLOYMENT INCOME.—The term
22 ‘self-employment income’ has the meaning given the
23 term in section 1402(b) of the Internal Revenue
24 Code of 1986 for purposes of the taxes imposed by
25 section 1401(b) of such Code.

1 “(5) STATE.—The term ‘State’ means any
2 State of the United States or the District of Colum-
3 bia or any territory or possession of the United
4 States.

5 “(6) STATE OR PRIVATE PAID LEAVE.—The
6 term ‘State or private paid leave’ means a benefit
7 which provides full or partial wage replacement to
8 employees on the basis of specifically defined quali-
9 fying events described in section 102 of the Family
10 and Medical Leave Act of 1993 or defined by a writ-
11 ten employer policy or State law and which ends ei-
12 ther when the qualifying event is no longer applica-
13 ble or a set period of benefits is exhausted.

14 “(7) UNEMPLOYMENT COMPENSATION.—The
15 term unemployment compensation means—

16 “(A) ‘regular compensation’, ‘extended
17 compensation’, and ‘additional compensation’
18 (as such terms are defined by section 205 of
19 the Federal-State Extended Unemployment
20 Compensation Act (26 U.S.C. 3304 note)); and

21 “(B) assistance under section 410 of the
22 Robert T. Stafford Disaster Relief and Emer-
23 gency Assistance Act (42 U.S.C. 5177).

24 “(8) WAGES.—The term ‘wages’ has the mean-
25 ing given such term in section 3121(a) of the Inter-

1 nal Revenue Code of 1986 for purposes of the taxes
2 imposed by sections 3101(b) and 3111(b) of such
3 Code.

4 **“SEC. 602. EMERGENCY PAID LEAVE BENEFITS.**

5 “(a) IN GENERAL.—The Commissioner shall pay an
6 emergency paid leave benefit, to be paid electronically or,
7 if necessary, by mail, to each eligible individual for each
8 30-day period beginning and ending in the benefit period
9 (not to exceed 3) for which the eligible individual has filed
10 an application containing such certifications as required
11 under subsection (e).

12 “(b) BENEFIT AMOUNT.—

13 “(1) IN GENERAL.—Subject to paragraph (2),
14 the amount of the emergency paid leave benefit to
15 which an individual is entitled under subsection (a)
16 for a 30-day period shall be an amount (not to ex-
17 ceed \$4,000) equal to $\frac{2}{3}$ of the individual’s average
18 monthly earnings.

19 “(2) REDUCTION BASED ON RECEIPT OF STATE
20 OR PRIVATE PAID LEAVE.—The amount of an emer-
21 gency paid leave benefit to which an individual is en-
22 titled under subsection (a) for a 30-day period shall
23 be reduced by \$1 for each dollar of State or private
24 paid leave received by the individual for such period.

1 “(3) AVERAGE MONTHLY EARNINGS.—For pur-
2 poses of this subsection, an individual’s average
3 monthly earnings shall be equal to the quotient ob-
4 tained by dividing—

5 “(A) the total of the wages and self-em-
6 ployment income received by the individual dur-
7 ing the most recent calendar year preceding an
8 application for an emergency paid leave benefit
9 under this section for which data is available to
10 the Commissioner; by

11 “(B) 12.

12 “(c) BENEFIT PERIOD.—For purposes of this sec-
13 tion, the benefit period begins on January 19, 2020, and
14 ends on the date that is 1 year after the date of enactment
15 of this title.

16 “(d) RETROACTIVE BENEFITS.—An application for
17 benefits for any month beginning and ending in the benefit
18 period may be filed at any time prior to the date that is
19 180 days after the end of such benefit period.

20 “(e) APPLICATION.—

21 “(1) IN GENERAL.—An application for an emer-
22 gency paid leave benefit under this section for a 30-
23 day period shall include—

24 “(A) an attestation by the individual—

1 “(i) that he or she is an eligible indi-
2 vidual;

3 “(ii) that at least 14 emergency leave
4 days with respect to the individual oc-
5 curred, or are expected to occur, during
6 such period; and

7 “(iii) that the individual has informed
8 his or her employer of the individual’s need
9 to take emergency leave, if the individual
10 has an employer.

11 “(2) AVAILABILITY.—The Commissioner shall
12 accept applications online, by telephone, and by
13 mail.

14 “(3) AUTHENTICATION OF IDENTITY.—The
15 Commissioner is authorized to take such steps as are
16 necessary to authenticate the identity of applicants.

17 “(4) PENALTIES FOR FRAUD.—Any fraud or
18 misrepresentation relating to an application for ben-
19 efits under this title shall be treated as a violation
20 of section 208.

21 “(f) INELIGIBILITY BASED ON FRAUD AND CRIMINAL
22 ACTIVITY.—

23 “(1) INELIGIBILITY FOLLOWING CERTAIN CON-
24 VICTIONS.—An individual who has been convicted of
25 a violation under section 208 or who has been found

1 to have used false statements to secure benefits
2 under this section shall be ineligible for benefits
3 under this section.

4 “(2) INELIGIBILITY OF PRISONERS.—An indi-
5 vidual shall be ineligible for a benefit under this sec-
6 tion for any 30-day period with respect to which the
7 individual is an individual described in clause (i),
8 (ii), or (iii) of section 202(x)(1)(A).

9 “(g) REVIEW OF ELIGIBILITY AND BENEFIT PAY-
10 MENT DETERMINATIONS.—

11 “(1) BURDEN OF PROOF.—An application for
12 benefits under this section shall be presumed to be
13 true and accurate, unless the Commissioner dem-
14 onstrates by a preponderance of the evidence that
15 information contained in the application is false.

16 “(2) REVIEW.—

17 “(A) IN GENERAL.—An individual may re-
18 quest review of an adverse determination with
19 respect to such application or of a benefit pay-
20 ment determination and shall have the same ap-
21 peals rights as provided under title II.

22 “(B) FINAL DETERMINATIONS.—All final
23 determinations of the Commissioner under this
24 subsection shall be reviewable according to the
25 procedures set out in section 205.

1 “(3) PROGRAM INTEGRITY.—The Commissioner
2 shall have the authority to conduct random sample
3 audits of benefits provided under this title to ensure
4 compliance with the eligibility requirements for such
5 benefits.

6 “(h) PROTECTION OF EXISTING BENEFIT RIGHTS.—

7 “(1) IN GENERAL.—This title does not preempt
8 or supercede any provision of State or local law that
9 authorizes a State or local municipality to provide
10 paid leave benefits similar to the benefits provided
11 under this title.

12 “(2) GREATER BENEFITS ALLOWED.—Nothing
13 in this title shall be construed to diminish the obli-
14 gation of an employer to comply with any contract,
15 collective bargaining agreement, or any employment
16 benefit program or plan that provides greater paid
17 leave or other leave rights to employees than the
18 rights established under this title.

19 “(i) REIMBURSEMENT GRANTS TO STATES.—Not
20 later than July 1, 2021, the Secretary of the Treasury,
21 in consultation with the Commissioner of Social Security,
22 shall make a grant to each State in an amount equal to
23 the total amount, for all 30-day periods beginning and
24 ending in the benefit period, by which benefits under this
25 title were reduced under subsection (b)(2) as a result of

1 State and private paid leave paid by such State or under
2 the law of such State.

3 “(j) APPLICABILITY OF CERTAIN TITLE II PROVI-
4 SIONS.—The provisions of sections 204, 205, 206, and
5 208 shall apply to benefit payments made under this sec-
6 tion in the same way that such provisions apply to benefit
7 payments made under title II.

8 “(k) NO EFFECT ON ELIGIBILITY FOR SSI.—Any
9 benefit paid to an individual under this title shall not be
10 regarded as income or resources for any month, for pur-
11 poses of determining the eligibility of the recipient (or the
12 recipient’s spouse or family) for benefits or assistance, or
13 the amount or extent of benefits or assistance, under the
14 Supplemental Security Income program.

15 **“SEC. 603. FUNDING AND EXPEDITED IMPLEMENTATION**
16 **AUTHORITY.**

17 “(a) FUNDING.—There are appropriated such sums
18 as necessary to the Commissioner of Social Security to ad-
19 minister and pay benefits under the program established
20 under this title, and to the Secretary of the Treasury for
21 reimbursement grants under section 602(i).

22 “(b) EXPEDITED IMPLEMENTATION AUTHORITY.—
23 In order to expedite the implementation of the emergency
24 paid leave program under this title, the Commissioner is
25 authorized to waive existing Federal requirements regard-

1 ing paperwork reduction, system of records notices, con-
2 tracting and acquisitions, and hiring.

3 “(c) PROTECTION OF EXISTING EMPLOYEE
4 RIGHTS.—This title does not preempt or supersede exist-
5 ing collective bargaining agreements.

6 **“SEC. 604. PROTECTION OF SOCIAL SECURITY TRUST**
7 **FUNDS.**

8 “No funds from the Federal Old-Age and Survivors
9 Insurance Trust Fund or the Federal Disability Insurance
10 Trust Fund, or appropriated to the Social Security Ad-
11 ministration for the administration of titles II or XVI,
12 may be used for any purpose under this title.

13 **“SEC. 605. TAXATION OF EMERGENCY LEAVE BENEFITS.**

14 “No amount received by an individual under this title
15 shall be included in gross income for purposes of the Inter-
16 nal Revenue Code of 1986.”.